

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-197

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF
CONTINENTAL CASUALTY COMPANY,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Continental Casualty Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated February 26, 2004 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division and authorized to conduct the business of accident and health insurance, including long term care, in Colorado.
2. In accordance with §§ 10-1-201, to 207, C.R.S., on February 26, 2004, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The

Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("the Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failing to file a complete annual report of all policy forms in use. Respondent shall provide evidence that it has revised its procedures to ensure that the annual report and certification of all policy forms in use is filed with the Division in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue A2 concerns the following violation: Failing, in some cases, to maintain records required for market conduct purposes. The Respondent shall provide evidence that it has revised its procedures to ensure that records required for market conduct purposes are maintained in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue A3 concerns the following violation: Failing to establish auditable marketing procedures to ensure that any comparison of policies by its producers will be fair and accurate. The Respondent shall provide evidence that it has established auditable marketing procedures to ensure that any comparison of policies by its producers will be fair and accurate in compliance with Colorado insurance law. Since Respondent is no longer

marketing long term care products in Colorado, further development of auditable marketing procedures is not required on this issue.

12. Issue D1 concerns the following violation: Paying a service fee or other valuable consideration to entities that solicited insurance without being duly licensed. The Respondent shall provide evidence that it has revised its procedures to ensure that any entity that is paid a service fee or other valuable consideration for soliciting insurance is duly licensed in compliance with Colorado insurance law. Since Respondent is no longer marketing long term care products in Colorado, further evidence of compliance is not required on this issue.
13. Issue E1 concerns the following violation: Failing, in some cases, to define mental or nervous disorder as required by Colorado insurance law. The Respondent shall provide evidence that it revised all affected forms to include the required definition of mental or nervous disorder to ensure compliance with Colorado Insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue E2 concerns the following violation: Failing, in some cases, to incorporate the fraud warning language required by Colorado insurance law. The Respondent shall provide evidence that it revised the fraud warning language on all forms requiring such warning to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of three thousand two hundred fifty dollars and no/100 (\$3,250.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
16. It has come to the attention of the Commissioner that Respondent has exited the long term care market in Colorado.
17. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section, with evidence of the filing sent to the market conduct section. All self audits shall be performed in accordance with the Division's document,

'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, including a summary of the findings, and all monetary payments to covered persons.

18. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
19. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination Report dated February 26, 2004, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 23rd day of June, 2004.



Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 23rd day of June, 2004, I deposited the within **FINAL AGENCY ORDER NO. O-04-197 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF CONTINENTAL CASUALTY COMPANY** in the United States Mail with postage affixed and addressed to:

Mr. Stephen W. Lilienthal, President
Continental Casualty Company
CNA Plaza
Chicago, IL 60685

A handwritten signature in cursive script, reading "Dolores Arrington".

Dolores Arrington, MA, AIRC
Market Conduct Section
Division of Insurance